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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/062,957
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	First Named Inventor	Guo, Fangjiang
	Art Unit	3643
	Examiner Name	Griles, Bethany L.
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ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input checked="" type="checkbox"/> After Final - Response to Restriction Requirement <input type="checkbox"/> Affidavit/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communications to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Guo, Fangjiang	Atty. Docket:	88164.000002
Serial No.:	10/062,957	Examiner:	Griles, Bethany L.
Filed:	January 31, 2002	Art Unit:	3643
Title:	SYSTEM FOR THE PRESENTATION OF ANIMALS TO BE MILKED AND METHOD		

RESPONSE TO REQUIREMENT FOR RESTRICTION

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Sir:

In response to the Requirement for Restriction mailed August 25, 2004, Applicant hereby elects the claims of Group IV (Claims 32-41) with traverse.

The Examiner has reopened prosecution of this case after Appeal and has imposed a five-way restriction. Applicant has elected to prosecute the claims of Group IV (Claims 32-41) in this case with traverse in that Applicant considers that the Claims of Group II (Claims 12-21), Group III (Claims 22-31) and Group V (Claims 42-51) are properly maintained in a single application.

1. Groups II and IV

As between the elected Group IV claims and the Group II claims, the Examiner says they are distinguished in that the claims of Group II "are drawn to rearwardly loading an animal into a milking stall from a cart, classified in class 119, subclass 412" whereas the claims of Group IV "are drawn to moving an

animal into a transport cart and then into a milking stall, classified in class 119, subclass 412" (emphasis added).

The fact that the Examiner as put both groups of claims in the same class and subclass, supports a finding that there is no adequate basis for insisting on the restriction. Certainly, requiring a restriction leading to two separate searches of the same class and subclass merely duplicates the Examiner's effort.

That said, Applicant urges that the Examiner here has misclassified the invention. Class 119, subclass 412 relates to a railroad car for transporting animals having "partition means". The claims of both Group II and Group IV are directed to methods for presenting an animal to be milked and have nothing whatsoever to do with a railroad car partition means.

The Examiner says that "Group II could be used to transport chattel to a remote location via a cart, and Group IV could be used to move chattel within a warehouse or other storage facility." However, the claim limitations recite the method step of moving an animal from the cart and into a milking stall. This makes it clear that the invention resides in a method of moving an animal to be milked by cart to an unoccupied milking stall. Saying the cart might have other uses is not appropriate here and ignores the method steps recited involving a specific use of the cart, that is the moving of an animal to be milked from the cart and into an unoccupied milking stall.

2. Groups III and IV

As between the elected Group IV claims and the Group III claims, the Examiner says they are distinguished in that the claims of Group III "are drawn to loading an animal into a transport cart and then moving the animal *to a new location*, classified in Class 119 subclass 408" whereas the claims of Group IV "are drawn to moving an animal into a transport cart and then into a *milking stall*, classified in class 119, subclass 412" (emphasis added).

Applicant first points out that the Group III claims recite that the animal is moved to "an unoccupied milking stall" and not merely to a "new location". Accordingly, the claims of both groups require translating the cart (with the

animal thereon) to an unoccupied milking stall and not merely “to a new location” as suggested by the Examiner.

Applicant also submits that the step of “loading an animal onto a transport cart” of Group III (Claim 22) is comparable to the step of “moving a first animal to be milked onto a first transport cart” of the Group IV (Claim 32). Applicant sees no significance for purposes of restriction between “loading” an animal onto a cart and “moving” an animal onto a cart.

Thus, both the claims of Group III and Group IV are directed to a method including the steps of

- loading (or moving) an animal to be milked onto a cart;
- translating the cart to an unoccupied milking stall; and then
- loading (or moving) the animal from the cart and into the milking stall.

The Examiner justifies the restriction by reference to the classification of the inventions in different classes (Group III being in Class 119, subclass 408 and Group IV being in Class 119, subclass 412). However these classes broadly relate to railroad cars and have nothing whatsoever to do with milking. Class 119/408 concerns railroad cars having “feeding and watering means” and class 119/412 concerns railroad cars having “partition means”. Neither a partition means nor feeding/watering means are recited in the Group III and IV claims so the class designation made by the Examiner is in error.

Applicant urges that an appropriate classification is in class 119 subclass 14 (broadly “Milkers”) and that an appropriate search already has been made. This is evidenced by the four references used in the rejection of the claims of Groups III and IV all being classified in Class 119, subclasses 14.02 and 14.03; the same reference from subclass 14.02 (Waybright, US 5 483, 921) being applied in the rejection of the independent claims of both groups.

The Examiner says that “Group III could be used to load and move any type of chattel, and Group IV could be used to move chattel within a warehouse or other storage facility.” This ignores the claim limitations making it clear that the invention resides in a method of moving an animal to be milked by cart to an

unoccupied milking stall. Saying that the cart could be used for other purposes or in other locations ignores the claimed method steps.

3. Groups IV and V

As between the elected Group IV claims and the claims of Group V the Examiner says they are distinguished in that the claims of Group IV “are drawn to moving an animal into a transport cart and then into a milking stall, classified in class 119, subclass 412” and the Group V claims are “drawn to a milking parlor, classified in class 119, subclass 14.03.”

As noted above, the classification of the Group IV claims in class 119, subclass 412 is inappropriate in that none of the claims of the elected Group IV recite a partition means.

Applicant urges that an appropriate search involving the claims of Group IV directed to a method of milking would inherently involve a search of the of the classes dealing with milking parlors. In fact, the appropriate classes have been searched in that the same reference from class 119 subclass 14.02 (Waybright, US 5, 483, 921) has been used to support an anticipation rejection of both the Group IV and Group V independent claims (Claims 32 and 42 respectively) under 35 U.S.C. 102(b).

4. Summary

In the Examiner's view, the claims of Groups II and IV have not acquired a separate field of search. The Examiner, herself has classified both groups in class 119, subclass 412 so there is no adequate basis for insisting on a restriction between these groups. The Examiner's characterization of the claims of Groups III and IV is incorrect in that both sets of claims involve a method including moving an animal to be milked onto a cart, translating the cart to an unoccupied milking stall and moving the animal from the cart and into the stall and there is nothing in these claims related to a partition means or to a feeding/watering means (class 119/412 and 119/408 respectively). The Group V milking parlor claims follow the Group IV method steps in that claims of both

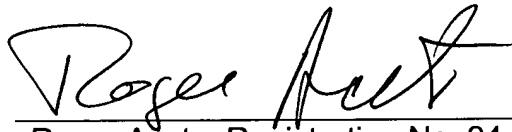
groups recite both a milking stall and a cart translatable relative to the milking stall.

Applicant urges that there already has been a through review and search of the subject matter of the claims of the elected Group IV and of Groups II, III and V as evidenced by the fact that the same references, all from class 119 subclasses 14.02 and 14.03 have been applied in the rejection of the claims. Moreover, at least one of the references is applied as an anticipation reference under 35 U.S.C. 102(b) against claims of different groups!

In view of the above comments, Applicant urges that the restriction requirement as to the claims of the elected Group IV and of Groups II, III and V is in error and should be withdrawn.

As to the elected claims of Group IV, (and provisionally with respect to the claims of Groups II, III and V) Applicant is requesting a reinstatement of the appeal as these claims have been twice rejected.

Respectfully submitted,



Roger Aceto, Registration No. 24, 554
HARTER, SECREST & EMERY LLP
1600 Bausch & Lomb Place
Rochester, New York 14604
Telephone: 585-231-1118
Fax: 585-232-2152

Dated: September ²⁴, 2004